

1 CRAIG B. FRIEDBERG, ESQ.
 Nevada Bar No. 004606
 2 3745 Edison Avenue
 Las Vegas, Nevada 89121
 3 Phone: (702) 435-7968; Fax: (702) 435-6659

4 Attorney for Plaintiff

5 **UNITED STATES DISTRICT COURT**
 6 **DISTRICT OF NEVADA**

8 STEVEN M. GAMSON,
 9 **Plaintiff,**

10 **vs.**

11 KRAVITZ, SCHNITZER & SLOANE CHTD,
 a Nevada professional corporation, and
 12 JEFFREY G. SLOANE, an individually,
 DOES I-V, inclusive and ROE Corporations
 13 VI-X, inclusive,

14 **Defendants.**

CASE NO.: CV-S-03-1328 KJD (PAL)

ERRATA TO

**REPLY TO DEFENDANTS'
 OPPOSITION TO PLAINTIFF'S
 MOTION FOR ATTORNEY'S FEES
 AND REQUEST FOR
 SUPPLEMENTAL AWARD OF
 ATTORNEY FEES**

15 COMES NOW, Plaintiff STEVEN M. GAMSON, by and through his attorney,
 16 Craig B. Friedberg, and submits his Errata to his Reply to Defendants' Opposition to His
 17 Motion for Attorney's Fees and Request for a Supplemental Award for Attorneys Fees.

18 This errata is necessitated because Plaintiff inadvertently submitted a certificate
 19 of service that was used for his original motion for attorney fees, filed and served on July
 20 7, 2004. Attached is the corrected certificate of service showing that the Reply to
 21 Defendants' Opposition to His Motion for Attorney's Fees and Request for a
 22 Supplemental Award for Attorneys Fees was mailed to Defendants on April 8, 2005.
 23 Additionally there were a number of typographical errors which needed correcting.¹
 24

25
 26 ¹ The following changes have been made to the attached reply brief, *infra*.

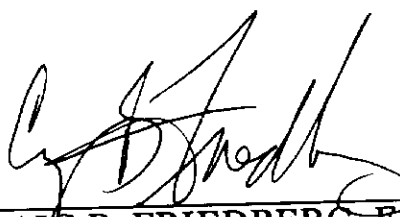
Page	Line	Description
27	2	between the words "in" and "was" "actually," changed to "actuality."
	3	between "9.9" and "@", inserted the word "hours"
28	"	deleted 1st "\$" from in front of "3,468.00."
	"	between the letters "t" and "i" in "pointin", inserted a space
	"	between the words "cannot" and "now", deleted word "be"

(continued...)

The complete document (with the proper certificate of mailing and the corrections of the typographical errors) was served by mail on Defendants on April 8, 2005. In order to facilitate a review of the brief as it should be, Plaintiffs have attached the entire reply brief, with exhibits and the corrections noted above, as Exhibit "1" to this errata.

DATED this 11th day of April 2005.

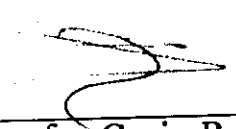
Respectfully submitted,


 CRAIG B. FRIEDBERG, ESQ.
 3745 Edison Avenue
 Las Vegas, Nevada 89121
 Attorney for Plaintiff

CERTIFICATE OF SERVICE

The undersigned, hereby certifies that on the 11th day of April 2005, the foregoing Errata to Reply to Defendants' Opposition to Plaintiff's Motion For Attorney's Fees and Request for Supplemental Award of Attorney's Fees was deposited in the U.S. Mail, first class, postage prepaid, addressed to the following:

Jane Eberhardy, Esq.
 Regina M. McConnell, Esq.
 KRAVITZ, SCHNITZER & SLOANE, CHTD.
 1389 Galleria Drive, #200
 Henderson, NV 89014
 Attorneys for Defendants


 Designee for Craig B. Friedberg, Esq.

¹(...continued)

Page	Line	Description
4	4	between the words "for" and "protection", changed "bankruptcy" to "bankruptcy"
5	7	between the words "ruling" and "Heintz", changed "on" to "in"
6	11&15	changed "SLAON" to "SLOANE"
"	13	between the words "FDCPA" and "filing", inserted "and"
"	14	between the words "request," and "signing", changed "and" to "to"

1 CRAIG B. FRIEDBERG, ESQ.
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6 Attorney for Plaintiff

7
8 **UNITED STATES DISTRICT COURT**
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10 STEVEN M. GAMSON,
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CASE NO.: CV-S-03-1328 KJD (PAL)

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13 KRAVITZ, SCHNITZER & SLOANE CHTD,
14 a Nevada professional corporation, and
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16 DOES I-V, inclusive and ROE Corporations
17 VI-X, inclusive,


18 **Defendants.**

**REPLY TO DEFENDANTS'
OPPOSITION TO PLAINTIFF'S
MOTION FOR ATTORNEY'S FEES
AND REQUEST FOR
SUPPLEMENTAL AWARD OF
ATTORNEY FEES**

19 COMES NOW, Plaintiff STEVEN M. GAMSON, by and through his attorney,
20 Craig B. Friedberg, and submits his reply to Defendants' opposition to his Motion for
21 Attorney's Fees and further requests a supplemental award for attorneys fees expended
22 upon this motion. This reply is based on the Memorandum of Points and Authorities
23 incorporated herein and the pleadings and papers on file heretofore.

24 DATED this 8th day of April 2005.

25 Respectfully submitted,

26 
27 **CRAIG B. FRIEDBERG, ESQ.**
28 3745 Edison Avenue
Las Vegas, Nevada 89121
Attorney for Plaintiff

Law Office of
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**REPLY MEMORANDUM IN SUPPORT OF
PLAINTIFF'S MOTION FOR AWARD OF ATTORNEYS' FEES**

I.

**THE ATTORNEY FEES REQUESTED ARE REASONABLE AND SHOULD BE
AWARDED**

The central rationale for Defendants' opposition to Plaintiff's motion for attorney fees is that the March 15, 2004 offer of judgment Plaintiff accepted was for the same amount that Defendants offered Plaintiff on December 8, 2003. Accordingly, goes Defendants' argument, no attorney time after December 8, 2003 should be awarded. The premise, however, is just not true.

The December 8, 2003 letter offer of judgment is attached to Defendants' opposition brief as exhibit 1. The offer is for a total of \$2,000.00, **including**, attorney's fees and costs. It specifically broke out the offer as \$1,000.00 for statutory damages, \$500.00 for actual damages, and \$500.00 "for both costs of this action as well as for your attorneys' fees." The attorney fees component, in actuality, was in the amount of \$129.32 after subtracting the filing fee (\$150.00) and the service of process fees (\$220.68) which were so high because Defendants refused to respond to Fed.R.Civ.P. (FRCP) 4 requests for waivers of service of process received on January 5, 2004, and then tried to evade personal service. See Affidavit of Service on Defendant JEFFREY G. SLOANE (SLOANE), dated March 9, 2004 and Affidavit of Service on Defendant KRAVITZ, SCHNITZER & SLOANE (KS&S), dated February 19, 2004, attached hereto as Exhibit "1" and incorporated by reference herein. As of December 8, 2003, Plaintiff's counsel had spent 9.5 hours @ \$200.00/hr representing the Plaintiff. This comes to \$1,900.00, more than fourteen times(14 x) the amount Defendants were offering.

On the other hand, Defendants March 15, 2004 formal offer of judgment was for \$2,000.00 "**exclusive of all interest and attorney's fees.**" (Emphasis added.) In a follow-up conversation with defense counsel on March 26, 2004, it was confirmed that the intent of this offer of judgment was to have the issue of the amount of attorney's fees

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1 and costs Defendants would pay left to the Court to decide. This understanding was set
 2 forth in a letter written by Plaintiff's attorney to defense counsel on April 1, 2004,
 3 attached hereto as Exhibit "2", and incorporated by reference herein.¹ Thus, it is illogical
 4 and a misrepresentation for Defendants to assert that Plaintiff's acceptance of the March
 5 15, 2004 offer of judgment should somehow limit the award of attorney's fees to only the
 6 time expended before December 8, 2003.

7 **It is very important to note that in that April 1, 2004 letter, Plaintiff's**
 8 **attorney offered to compromise the attorney's fees and costs to \$2,500.00.**

9 This offer was made despite the fact that 16.1 hours had been expended before the offer
 10 of judgment, with 9.9 hours @ \$200.00/hr and 6.2 hours @ \$240.00/hr. for a total
 11 amount of \$3,468.00. Add to this costs in the amount of \$382.93, and the total fees and
 12 costs expended at that point in time was \$3,850.93. Plaintiff's offer was, in fact, an offer
 13 to accept a reduction of thirty-five percent (35%) from the amounts outstanding at that
 14 time.

15 Defendants refused to accept Plaintiff's offer and instead filed a wholly frivolous
 16 motion to transfer venue, which had to be extensively researched and opposed. With
 17 respect to the time expended post-acceptance of the offer of judgment, if Defendants
 18 had merely waited for the appointment of Plaintiff's attorney as special counsel to file
 19 the acceptance and then wait for the motion for attorney's fees, the amount of time
 20 expended would have been considerably less.

21 However, that was not what Defendants chose to do. Instead, they have blocked
 22 and opposed Plaintiff at every step. As it was in response to Defendants' litigation
 23 tactics which caused the expenditure of time they now complain of, they cannot be now
 24 state that Plaintiff should not have spent the time necessary to protect his interests.

25 With respect to Defendants' objection to the small amount of time included in
 26

27 ¹ "It is agreed that amounts for interest, costs and attorney's fees, pursuant to
 28 §1692k(a)(3), are not included in the offer and are in addition to that amount."

1 Mr. Friedberg's time sheets which included communications with Plaintiff's bankruptcy
 2 counsel or Bankruptcy trustee, these communications were made necessary because of
 3 Defendants' tactics. Mr. Friedberg did not include time spent solely as a consequence of
 4 Plaintiff filing for bankruptcy protection; although Defendants have not provided any
 5 authority to support their assertion that the time should not be considered by the Court.

6 II.

7 **DEFENDANTS HAVE NEITHER PROCEDURALLY NOR SUBSTANTIVELY** 8 **DEMONSTRATED THE NEED FOR THE JUDGMENT AGAINST SLOANE TO** 9 **BE SET ASIDE**

10 Defendants also seek to resurrect their motion to dismiss a year after it was
 11 rendered moot by the entry of judgment in this action. It first must be pointed out that
 12 Defendants voluntarily presented GAMSON with an Offer of Judgment that was on
 13 behalf of **both** SLOANE and KS&S, jointly and severally. Moreover, their request is
 14 actually a disguised attempt to move the court to set aside the judgment entered against
 15 SLOANE without presenting any of the requirements set forth in FRCP 60(b). This
 16 failure, alone, is reason enough to deny Defendants' request.

17 In addition to the procedural deficiencies in Defendants' request, it is also
 18 substantively unsupportable. The fact that SLOANE is a shareholder in KRAVITZ,
 19 SCHNITZER & SLOANE has no impact on his liability. In no document filed on behalf
 20 of the Defendants, does Mr. SLOANE dispute the fact that he is a debt collector, as that
 21 term is defined in the FDCPA.

22 The FDCPA states:

23 The term "debt collector" means any person who uses any
 24 instrumentality of interstate commerce or the mails in any
 25 business the principal purpose of which is the collection of
 26 any debts, or who regularly collects or attempts to collect,
 27 directly or indirectly, debts owed or due or asserted to be
 28 owed or due another.

15 U.S.C. §1692a(6).

Attorneys collecting debts through litigation may be included in the definition of
 "debt collector." *Heintz v. Jenkins*, 514 U.S. 291, 115 S.Ct. 1489, 131 L.Ed.2d 395 (1995).

1 In *Fox v. Citicorp Credit Services, Inc.*, 15 F.3d 1507, 1511 (9th Cir. 1994), the Court
 2 stated: "Attorneys, like all other persons, are subject to the definition of "debt collector"
 3 in 15 U.S.C. § 1692a(6)."

4 The corporate form does not insulate individual debt collectors involved in the
 5 collection from liability under the FDCPA. To so rule, undermines the purpose of the
 6 FDCPA and disregards the ruling in *Heintz v. Jenkins*.

7 Officers and employees directly involved in the collection through a collecting
 8 agency may be jointly and severally liable with the agency. *Piper v. Portnoff Law*
 9 *Associates*, 274 F.Supp.2d 681 (E.D.Pa. 2003). In *Piper v. Portnoff Law Associates*, 274
 10 F.Supp.2d 681, 689 the individual attorney defendants also argued no individual
 11 employee liability but the court held for the plaintiff as follows:

12 Other district courts have held that officers and employees of
 13 the debt collecting agency may be jointly and severally liable
 14 with the agency. See Musso v. Seiders, 194 F.R.D. 43, 46- 47
 15 (D.Conn.1999) ("A high ranking employee, executive or
 16 director of a collection agency may fit within the statutory
 17 definition of a debt collector."); Ditty v. CheckRite, Ltd., 973
 18 F.Supp. 1320, 1336-37 (D.Utah 1997) (finding that a
 19 collection firm's attorney was personally liable under the
 20 FDCPA after meeting the definition of a debt collector);
 21 Teng v. Metropolitan Retail Recovery, Inc., 851 F.Supp. 61,
 22 67 (E.D.N.Y.1994) (same); West v. Costen, 558 F.Supp. 564,
 23 587 (W.D.Va.1983) (same). In determining that an employee
 24 could be liable under the FDCPA, the Teng court reasoned:

25 First, each employee is himself a "debt collector"
 26 within the statutory definition, namely, each is a
 27 "person" in a business, "the principal purpose of
 28 which is the collection of any debts or who regularly
 collects or attempts to collect ... debts owed or due ...
 another...."

Second, Zapata and Soto are each affirmative actors
 and tortfeasors, who actually made the actionable
 phone calls, and would be personally liable if this was
 a tortious cause of action. Thus, the defendants Met
 Retail, Zapata and Soto are jointly and severally liable
 for the damages incurred by the plaintiff, if there is
 liability.

Teng, 851 F.Supp. at 67. In this case, plaintiff has shown that
 the individual defendants both signed debt collection letters,
 or authorized others to sign the letters for them, and were
 involved in PLA's [Portnoff Law Associates] day to day
 operations. (Emphasis added).

See also *In re National Credit Management Group*, 21 F. Supp. 2d 424, 461

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(D.N.J. 1998) (officers can be individually liable if they directly participated in the violations; played a part in controlling, directing or formulating the policies and practices which violate the law; or have authority to control the violators and actual or constructive knowledge of the violations); *Ditty v. Checkrite, Ltd.*, 973 F.Supp. 1320, 1336-37 (D.Utah 1997)(district court found that a collection firm's attorney who authored the unlawful collection letters satisfied the definition of debt collector and was personally liable under FDCPA.)

The same reasoning applies to this case. GAMSON does not seek to hold SLOANE liable simply by virtue of his position with KS&S; rather, he alleges that SLOANE is personally liable as a debt collector because his hand was in almost every violation alleged by GAMSON in his complaint, from authoring the various letters alleged to violate the FDCPA, filing the collection suit against GAMSON without ever responding to GAMSON's dispute and verification request, and signing the last dunning letter which was sent to GAMSON after SLOANE received GAMSON's written request to cease and desist all further collection communications. GAMSON adequately stated a claim under the FDCPA against SLOANE in his individual capacity, and therefore, the Defendants' request to set aside the judgment against SLOANE must be denied.

Moreover, SLOANE's reliance on the corporate shield doctrine is also erroneous. As the First Circuit stated in *Northern Laminate Sales, Inc. v. Davis*, No. 04-1522, 2005 U.S. App. LEXIS 5244, ___ F.3d ___ (1st Cir. 2005), decided on April 1, 2005:

Davis also argued below that he could not be held personally liable for his actions as a corporate officer under the fiduciary shield doctrine. . . . we pause briefly to note that the **"general rule . . . is that an officer of a corporation 'is liable for torts in which he personally participated, whether or not he was acting within the scope of his authority.'"** *Escude Cruz v. Ortho Pharm. Corp.*, 619 F.2d 902, 907 (1st Cir. 1980). Here, as Davis personally participated in the alleged tortious activity, he is not protected by the fiduciary shield doctrine. (Emphasis added.)

Likewise, the Ninth Circuit has recognized the exception set forth in *Escude Cruz* in *Davis v. Metro Productions Inc.*, 885 F.2d 515 (9th Cir. 1989)(citing *Escude Cruz*, "

1 ("Cases which have found personal liability on the part of corporate officers have
 2 typically involved instances where the defendant was the 'guiding spirit' behind the
 3 wrongful conduct, . . . or the 'central figure' in the challenged corporate activity.") This
 4 exception also has been recognized in Nevada state law. In *Grayson v. Jones*, 101 Nev.
 5 749, 750, 710 P.2d 76 (1985), the Nevada Supreme Court stated that "[a] member of
 6 [sic] professional legal corporation in Nevada is not individually liable for the tortious
 7 acts of other members of that professional legal corporation **unless he/she**
 8 **personally participated in those tortious acts.** (Emphasis added.)

9 Accordingly, Defendants have failed, both procedurally and substantively, to
 10 provide any reason why the judgment against SLOANE should be set aside.

11 III.

12 **PLAINTIFF IS ENTITLED TO A SUPPLEMENTAL AWARD OF ATTORNEY 13 FEES FOR THE TIME EXPENDED UPON THIS MOTION**

14 The Affidavit submitted by Plaintiff's attorney in his original Motion detail the
 15 time expended in this litigation through the preparation of that motion. Any additional
 16 time expended preparing this Reply Supporting the Motion for Attorney Fees will be
 17 submitted when work of Plaintiff's counsel is completed. An award of fees is
 18 appropriate for the time expended in pursuing a Motion For Award Of Attorney Fees.
 19 An award of fees is appropriate for the time expended in pursuing a motion for award of
 20 attorney fees. It has repeatedly been held in the Ninth Circuit that time spent by counsel
 21 in establishing the right to a fee award is compensable. *Clark v. City of Los Angeles*,
 22 803 F.2d 987, 992 (9th Cir. 1986); *In Re Nucorp Energy, Inc.*, 764 F.2d 655, 659-660
 23 (9th Cir. 1985).² Should there be additional briefing and oral argument Plaintiff's

24 ² See also *Haitian Refugee Center v. Meese*, 791 F.2d 1489, 1500, 1501 (11th Cir. 1986).
 25 ("We conclude that attorney's fees may be awarded for time spent litigating the fee claim.");
 26 *Johnson v. State of Mississippi*, 606 F.2d 635, 638 (5th Cir. 1979). *Noxell Corp. v. Firehouse*
 27 *No. 1 Bar-B-Que Restaurant*, 771 F.2d 521 (D.C. Cir. 1984) (hours reasonably devoted to
 28 request for fees are compensable); *Sierra Club v. EPA*, 769 F.2d 796 (D.C. Cir. 1985) (outside
 attorney compensated at reasonable rate for preparation of fee petition); *Schuenemeyer v. United*
 (continued...)

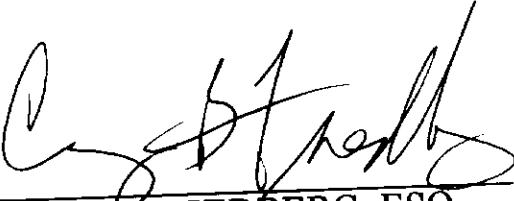
1 counsel will submit another Supplemental Motion for Award of Attorney Fees and
 2 Affidavits in support thereof.

3 CONCLUSION

4 Based upon the lodestar calculation, attorney fees should be awarded to Plaintiff's
 5 counsel in the amount of \$9,660.00. A supplemental award of attorney fees should be
 6 made to compensate Plaintiff's counsel for any additional time expended on this matter.

7
 8
 9 DATED this 8th day of April 2005.

10 Respectfully Submitted,

11 

12
 13 CRAIG B. FRIEDBERG, ESQ.
 14 3745 Edison Avenue
 15 Las Vegas, Nevada 89121
 16 Attorney for Plaintiff

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17
 18
 19
 20
 21
 22
 23 ²(...continued)

24 *States*, 776 F.2d 329, 333 (Fed. Cir. 1985) (attorney fees incurred in the preparation of fee
 25 application are compensable); *Tyler Business Services, Inc. v. N.L.R.B.*, 695 F.2d 73, 77 (4th Cir.
 26 1982) (amount of recovery may include time spent preparing and prosecuting motion for attorney
 27 fees); *David v. City of Scranton*, 633 F.2d 676 (3d Cir. 1980); *Gagne v. Maher*, 594 F.2d 336,
 28 344 (2d Cir. 1979), *aff'd* on other grounds, 448 U.S. 122 (1979), *Weisenberger v. Huecker*, 593
 F.2d 49, 53, 54 (6th Cir. 1979), *cert. denied*, 444 U.S. 880 (1979); *Prandini v. National Tea Co.*,
 585 F.2d 47 (3d Cir. 1978); *Lund v. Affleck*, 587 F.2d 75 (1st Cir. 1978); *Perez v. Perkiss*, 742 F.
 Supp. 883, 891, 892 (D. Del. 1990).

CERTIFICATE OF SERVICE

The undersigned, hereby certifies that on the 8th day of April 2005, the foregoing Reply to Defendants' Opposition to Plaintiff's Motion For Attorney's Fees and Request for Supplemental Award of Attorney's Fees was deposited in the U.S. Mail, first class, postage prepaid, addressed to the following:

KRAVITZ, SCHNITZER & SLOANE, CHTD.
1389 Galleria Drive, #200
Henderson, NV 89014
Attorneys for Defendants



Designee for Craig B. Friedberg, Esq.

CRAIG B. FRIEDBERG, ESQ.

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United States District Court
District of Nevada

Steven M. Gamson

PLAINTIFF(S)

vs.

Kravitz Schnitzer &
Sloane Cht'd

DEFENDANT(S)

CASE NO:
CV-S-1328-KJD-PAL

AFFIDAVIT OF
SERVICE

STATE OF NEVADA
COUNTY OF CLARK

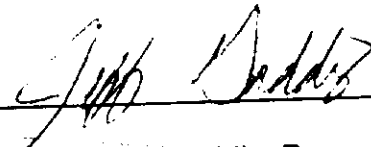
Jeff Gaddis, being first duly sworn, deposes and says: That affiant is, and was a citizen of the United States, over 18 years of age, and not a party to, nor interested in the proceeding in which this affidavit is made. That affiant received copies of the Summons and Complaint, on February 18, 2004 and served the same on February 19, 2004 at 10:15 PM, in the following manner:

By delivering and leaving a copy with Jeffrey G. Sloane, personally.

Said service was effected at: 533 Lambeth Court, Henderson, NV 89014.


Service Note(s):

Served on refusal. Affiant made eye contact with the defendant through front window. He positively identified Mr. Sloane through window. Defendant refused to open the door. Affiant served the said documents on refusal and yelled at defendant through the window that he had been served.



Jeff Gaddis, Process Server
License No: 999A
CLERK OF DISTRICT COURT
COUNTY OF CLARK
JEFF G. BRADLEY
CLERK OF DISTRICT COURT
COUNTY OF CLARK
CLERK OF DISTRICT COURT
COUNTY OF CLARK

SUBSCRIBED AND SWORN TO before me
today Tuesday, March 9, 2004.



NOTARY PUBLIC

Legal Express

911 S. 1st St.
Las Vegas, NV, 89101
(702) 877-0200 , (702) 384-8170 Fax
mailto:legex@aol.com
License No(s): 999/999A

Service Fees: \$140.00

Prepared for:
Craig B. Friedberg
3745 Edison Avenue
Las Vegas, NV 89121
Legex Slip # 30214-Craig

District of Nevada

Steven M. Gamson

PLAINTIFF(S)

vs.

Kravitz Schnitzer &
Sloane Cht'd

DEFENDANT(S)

CASE NO:

CV-S-1328-KJD-PAL

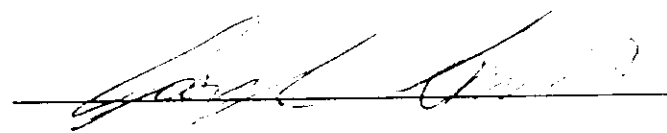
AFFIDAVIT OF
SERVICE

STATE OF NEVADA
COUNTY OF CLARK

Joseph Smith, being first duly sworn, deposes and says: That affiant is, and was a citizen of the United States, over 18 years of age, and not a party to, nor interested in the proceeding in which this affidavit is made. That affiant received copies of the Summons and Complaint, on February 18, 2004 and served the same on February 18, 2004 at 4:31 PM, in the following manner

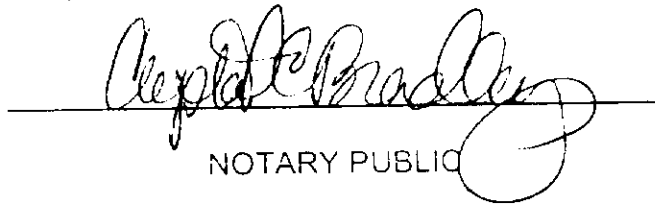
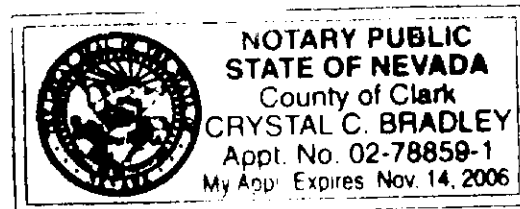
By serving Kravitz Schnitzer & Sloane Cht'd by personally delivering and leaving a copy with Misty Stewart, Receptionist, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate or designation filed with the Secretary of State.

Said service was effected at: 1389 Galleria Drive, Suite 200, Henderson, NV 89014.



Joseph Smith, Process Server
License No: 999A

SUBSCRIBED AND SWORN TO before me
today Thursday, February 19, 2004.


NOTARY PUBLIC

Legal Express

911 S. 1st St.
Las Vegas, NV, 89101
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Prepared for:
Craig B. Friedberg
3745 Edison Avenue
Las Vegas, NV 89121
Legex Slip # 30213-Craig

Service Fees: \$70.00

LAW OFFICE OF

Craig B. Friedberg, Esq.



3745 EDISON AVENUE
LAS VEGAS, NEVADA 89121
PHONE: (702) 435-7968 FAX: (702) 435-6659

April 1, 2004

VIA FACSIMILE

In accordance with FRE 408

Abran A. Vigil, Esq.
KRAVITZ, SCHNITZER & SLOANE, CHTD.
1389 Galleria Drive, #200
Henderson, NV 89014

Re: *Gamson v. Kravitz, Schnitzer & Sloane, et al.*
CV-S-03-1328KJD(PAL)

Dear Mr. Vigil:

This letter is to confirm our conversation today that as Mr. Gamson filed for chapter 13 bankruptcy protection, you will agree to an extension of time on the offer of judgment if it comes from Bankruptcy Trustee Kathleen McDonald. I have spoken to her and she has told me she will be contacting you before the end of the day.

Further, this letter will confirm that the \$2,000.00 amount set forth in the offer of judgment is to compensate Mr. Gamson for his actual and/or statutory damages for the claims set forth in his Complaint. It is agreed that amounts for interest, costs and attorney fees, pursuant to §1692k(a)(3), are not included in the offer and are in addition to that amount.

I have previously explained that I have expended 10+ hours with this case, which include, but is not limited to, conferences and communications with my client, an analysis of the facts as they relate to the multiple violations alleged, the drafting of a comprehensive pre-suit settlement demand letter, drafting of the complaint, drafting of request for waiver of service of summons by your clients and the return waiver form, follow-up correspondence regarding your clients' failure to waive service, communications with process server regarding your client's attempt to evade service, receipt and review of the two motions to dismiss, research regarding authorities and arguments presented in the motions and first draft of a response to the motions to dismiss.